

**THE COMMON COUNCIL OF THE CIVIL CITY OF NEW ALBANY,  
INDIANA, WILL HOLD A SPECIAL COUNCIL MEETING IN THE THIRD  
FLOOR ASSEMBLY ROOM OF THE CITY/COUNTY BUILDING ON  
TUESDAY OCTOBER 9, 2007 AT 4:30 P.M.**

**MEMBERS PRESENT:** Mr. Coffey, Mr. Price, Mrs. Crump, Mr. Blevins, Mr. Zurschmiede, Mr. Schmidt, Mr. Messer, and Mr. Kochert. Mr. Gahan was not present.

**OTHERS:** Mayor James Garner, Council Attorney Jerry Ulrich, Deputy City Clerk Mindy Milburn.

**CALL TO ORDER:**

The meeting of the **New Albany City Council** was called to order by President Larry Kochert at 4:35 p.m. and stated that they were here to discuss the location of the realignment and redistricting.

**Mr. Gahan** called in to let the Clerk's office know that he was in transit from Nashville, TN and was making every effort to be at the meeting.

**Mr. Kochert** stated that they have in front of them the agreement that they had with the magistrate in principal and it was his intention to follow this. He stated that the first part of the agreement was to meet with the plaintiff's and get their input and then they were to meet and come up with an equal division. He explained that there was a plan submitted by Mr. Schmidt as a starting point for discussion and that is where they are now. He asked Mr. Ulrich if the document is what they agreed on.

**Mr. Ulrich** stated that this was the document that came out of the discussion

**Mr. Messer** asked where the November 22<sup>nd</sup> date came into play and why they would agree to that date.

**Mr. Ulrich** stated that this was a counter offer to the plaintiff's and they agreed to the date because Mr. Kochert thought they could resolve it by then. He stated that the case was going to be resolved in one of two ways, by consent decree or through adjudication.

**Mr. Kocher** stated that his position was that he felt like he was charged with getting this finished and that is what he felt like he was doing and the plaintiff's were the one that demanded a finish date early on and now they have changed their tune to say they want to stop and wait and finish it next year.

**Mr. Ulrich** stated that the original proposal was the 2008 date and he didn't remember them asking for an earlier date at the settlement conference and then they countered with the November 22<sup>nd</sup> date.

**Mr. Coffey** asked if they agreed to the date.

**Mr. Ulrich** stated that it was understood that they would have something done by this date but it wasn't in writing.

**Mr. Messer** stated that he was mislead that they had to have it done by November 22<sup>nd</sup>

**Mr. Kochert** said that the date was agreed upon at the settlement conference.

**Mr. Messer** asked if it was by his request or was it a stipulation of the plaintiff's

**Mr. Kochert** said he would go back to the original conference in my Ulrich's office and it was the opinion of all the council members that they would like to get this finished.

**Mr. Coffey** said that he has been hammered by certain members that they have dropped the ball and didn't do their job and now he is being told to leave it for the next council. He stated that there was an agreement between the council and the plaintiffs and that is why he brought this to the members

**Mrs. Crump** asked if there was an agreement then why were the plaintiffs at the meeting asking for new dates and asked if the judge turned down Mr. Schmidt's proposal

**Mr. Ulrich** said no

**Mrs. Crump** asked members in the audience that were the plaintiff's if they had agreed to the earlier date and stated that she was confused as to what they were supposed to be approving.

**Mr. Zurschmiede** stated that if the Council approves of one of the consent decrees and the plaintiff's do not, then it does them no good either way.

**Mr. Messer** said he felt like he was mislead when the plaintiffs came to the council to ask for an alternate plan instead of going to date and why would they agree to this date in the first place. He asked Mr. Kochert what his interest was in this if this has been out off since 2002. He stated that the plaintiff's have had a change of heart and want to try to work this out and not go to court

**Mr. Blevins** stated that when they offered the date of June or July and they counter with the November date and the all agreed. He said they shouldn't leave this for the next council or they would be doing the same thing as the previous council who dropped the ball.

**Mr. Messer and Mrs. Crump stated that they did not agree to any date.**

**There was a lengthy discussion between Mr. Messer and Mr. Blevins's about committee meeting dates and not being informed of scheduled meetings.**

**Mr. Messer** stated that he thinks the council needs to wait until the 6:00 p.m. meeting to see what they have to talk about.

**Mr. Messer** said he agrees with some of what he says but he was chosen to be part of a commission to set down with both parties in the lawsuit to reach a reasonable solution and he kept Mr. Zurschmiede in the loop and Mr. Blevins stated that he was unable to be at the meetings. He said he hammered out what he could with the plaintiff's and called a special meeting to discuss with the others what they had come up with and he finds out later that they have scheduled a meeting before the one he set and it is unacceptable for them to adopt a proposal without even hearing what the commission that they appointed has to say. He stated that they shouldn't leave it for the next council to clean up.

**Mr. Blevins** stated that he told Mr. Messer to work with Mr. Zurschmiede and he would go along with what they came up with but he didn't come up with anything

**Mrs. Crump** stated that she doesn't understand why they are meeting right now over this if they are going to look at the other proposal at 6.

**Mr. Kochert** said that he was told by the judge to have two meeting and that they needed five signatures

**Mr. Coffey** stated that the redistricting is the lawsuit and the big reason for this meeting was so that they could see the original consent decree that was hammered out before the judge

**Mr. Zurschmiede** asked if there was a cleaned up version of the consent decree

**Mr. Ulrich** said no

**Mrs. Crump** said it was her understanding that the lawsuit would go away if the council was working on a plan and if the plaintiff's agreed.

**Mr. Messer** read from the consent decree and stated that it meant that an advisory committee would be established.

**Mrs. Crump** said that she has never heard that and why do some council members get info that others do not.

**Mr. Ulrich** said he would take responsibility for the letter.

**Mr. Messer** requested that the FOP be heard first and then the redistricting so that they don't have to sit through that.

**The meeting was adjourned until 6:00 p.m.**

**Mr. Kochert** called the meeting back into order at 6:02 p.m. and stated they were here to discuss the resolution relating to the settlement of the redistricting lawsuit and the FOP contract negotiations.

**Mayor Garner** said that he has been negotiating with the FOP and there are still 2 issues left. Number One: paid maternity leave and number two: salary increase as of last year's budget. He stated that the local FOP is asking for 4% raise with longevity instead of a 3% raise.

**Paul Haub FOP** stated that they brought several proposals to the mayor and took several off and some the mayor signed off on that didn't deal with money and he spoke to the first issue which was maternity leave. He referenced Detective Sherry Knight who requested light duty while she was pregnant and was treated very poorly by a superior officer and to keep this from happening in the future they ask that if a female officer gets pregnant and she brings a doctors statement, she can go to light duty instead of taking that time off from work and he exampled light duty officers doing clerical work like background checks. He stated as a tax payer he would rather have an officer that wants to contribute something instead of just pulling in a check while at home. The second issue was paid maternity leave and stated that they researched what would be a fair amount of time and looked to HIPPA which provides for six weeks and since there is a physical element to being a police officer they would afford two additional weeks. He explained that the second article is once the female officer delivers she should get 8 weeks off. He stated the second issue with negotiations was an increase in their base pay and explained that they originally had requested a 5% raise. He stated that they didn't ask for this number arbitrarily and explained how they calculated the 5% and explained that had they not went to arbitration under the Overton administration that they wouldn't have had an increase in pay scale over inflation and that and under the Garner administration they have lost pay in respect to inflation. He stated that they would like to get in the ball park of that number and explained that they have been treated fairly but the cost of living dictates what they need as far as raises go and each year they will ask for a raise that will get them close to that number. He explained that the mayor countered with 3% and included longevity and stated that they took it back to the lodge and they countered again with 4% and explained what they would have lost if they accepted the 3% and the membership stated that would be acceptable to them with the addition of the maternity leave and they would like to be able to do this without going to arbitration.

**Mayor Garner** stated that they have come to an agreement on what light duty is.

**Mr. Coffey** stated that he is absolutely in favor of the maternity issue and if that means it sets the standard for other employees then that is fine with him.

**Mr. Blevins** stated that it isn't like they have to find money for the person because their salary is already allotted

**Mayor Garner** stated that he would have to talk with Ms. Garry to make sure they wouldn't have to write a new salary ordinance to pay for a temporary person because they can't pay two different individuals for the same position.

**Mr. Blevins** asked if they went to arbitration would they win on the salary issue if it goes there and he doesn't see a need for it at all

**Mr. Haub** stated that he doesn't want anyone to think the negotiations have been fruitless and that Mayor has been very adept at getting the best deal for both parties. He stated that they do a good job of looking at what money is there and that they are aware as public servants that the salaries are coming from tax payer's dollars and they will never ask for money unless they see that it is there and they are able to fight for it. He exemplified them not asking for a pay raise last year because the money wasn't there for them to fight for. He stated that again they wouldn't be asking for it if they didn't think it was there and they have made sacrifices in the past so they are here in good faith asking for a raise that they believe is within the cities budget. He referenced the fact that when the issue with the insurance was up for renewal they hired a consultant to determine if the coverage was equal which it was not but they were told it is adequate and it will save the City a great deal of money and they had no problem going with the new insurance to help the City out.

**Mr. Coffey** stated that they gave up their raises last year and sometimes you just have to balance that out.

**Mr. Zurschmiede** stated that they have already agreed that they were going to give 3% across the board and that the firefighters are in negotiations and they will want the same amount and that will be telling the people on the third floor and other City employees that their raise is more important.

**Mr. Price** asked mayor if he thought it was doable and they could make the argument if it came up against the firemen getting a raise because of all the overtime that they get.

**Mr. Messer** stated that the same overtime might be having an affect on the police officer because of loss of man power and he stated that there is room in the budget to accept the 3% because they already agreed to that.

**Mayor Garner** stated that Mrs. Garry only figured in the 3% not the 1% longevity.

**Mr. Coffey** stated that he didn't know the city streets were in the shape that they were in as far as the drug problem and said he couldn't accept that, and he watched the council get excited about this proposed development when the money needs to be spent on new personnel. He stated that he has no problem offering EDIT money for more police and street department and they are at the point that they need to choose between a parking garage and personnel on the street. He argued that economic development also includes safe streets and he knows for a fact that if they need something out of the budget they can find it and he has brought up every year that they need to hire more people. He stated that they have 58 officers on the street and that is not enough and he would hope that they can find a way to hire 20 more but they are going to have to make a commitment and he believes the raises are a short term solution.

**Mr. Haub** stated that they are in a losing battle but not for lack of effort on the part of the officers. He stated that they are not making progress but losing ground every year and explained that the lodge is more than willing to do what they can do to take on the fight but right now they can not compete with the drug trade that goes on in the city because the dealers know that New Albany does not have the man power to take them on. He stated that it has come to a point where they can no longer compete with the crime in the City and this issue has to be addressed or they won't have a community.

**Mr. Kochert** stated that he went to Dow O'Neil and Julie Condra back in January or February to try and find a way to reduce the bottom line because the city is in the

situation where they can only afford so much and only do what is in their budget and asked them to come up with ways to cut the costs and how to get the bottom line down.

**Mr. Haub** stated that the police department is one of the few departments that can generate their own income but because of the lack of man power they are unable to do some of the work that would generate this money. He explained that they have missed some opportunities to work with the FBI to generate some much needed seized drug money because they are just unable to provide the men that are needed to help with these types of operations and that the money is going to the Floyd County Police and even the Louisville Metro Police Department instead of to New Albany and this is the type of money they could be using to buy new police cars and equipment but they are missing out because they do not have enough officers.

**Mr. Haub** asked to take an informal poll of the council members regarding the 4% raise so that he could report back to the lodge at a meeting that they were having tonight.

**Mr. Coffey** stated that he was for the raise

**Mr. Blevins** said he has no objection

**Mr. Price** said he has no objection to the raise

**Mrs. Crump** stated that they knew her opinion and has no objection to the raise

**Mr. Zurschmiede** stated that he is sticking with the 3% raise across the board

**Mr. Schmidt** stated that he agreed with Mr. Zurschmiede.

**Mr. Messer** abstained.

**Mr. Kochert adjourned for a 10 minute break.**

**Mr. Kochert** called the meeting back to order and stated that they would discuss R-07-35

**Mr. Messer** stated that he has had some contact with some of the plaintiff's and it was written by the Council Attorney and it states that they agree to the terms of the decree and the council has an opportunity to accept it and the possibility of the lawsuit being dropped .

**Mr. Coffey** asked if it was what Mr. Ulrich wrote up or if it was what they gave him to propose and he wrote it up for them

**Mr. Ulrich** stated that yes the consent decree was cleaned up and they should have it and the first decree says that the council will by November 22nd have given a third reading for a redistricting ordinance and neither provide for what that ordinance would be. He stated that he cleaned up the language of the original one and included some language that came back from the judge and the second decree

**Mr. Messer** said he was the go between as the committee chairman and discussed things with the plaintiffs, things he knew the council wouldn't accept and took the information to Mr. Ulrich and said they would go from there

**Mr. Ulrich** said what he brought to him was essentially what was given to the council the night of the meeting

**Mr. Coffey** referenced a part of the newest consent that says the council will pay for services rendered and that leaves the city open to pay for everything

**Mr. Messer** stated that they disagreed because the numbers that they wanted to use was the 2000 census.

**Mr. Coffey** asked why would they not use the newest information and he asked Mr. Ulrich about a letter from Mr. Beardsley

**Mr. Ulrich** stated that he spoke with Mr. Beardsley about who was supposed to be talking for the plaintiff's he stated that e would advise the council to pick a position and hen put the ball back in the plaintiff's court and see if they will accept it

**Mr. Coffey** stated that you have to make sure what is done doesn't conflict with state statute and the consent decree conflicts with state statute and referenced

**Mr. Messer and Mr. Coffey went back and forth listen to the tape and flush out the conversation.**

**Mr. Coffey** called the vote

**Mr. Messer** stated that if this is voted on the lawsuit will be dropped until next year.

**Mrs. Crump** asked who is going to enforce that and how can they be sure it will be dropped and that he point of view is if it isn't in writing it didn't happen.

**Mr. Ulrich** stated that they should approve it and let the plaintiff's see it.

**Mr. Coffey** stated that it was ridiculous to approve it and then work out the details later.

**Mr. Ulrich** stated that it is not binding until it is approved by both sides.

**Mr. Messer** stated that they have nothing to lose but they have to possibility of the lawsuit being dropped if they do it. He stated that he can't speak for the plaintiff's other than what they have told him.

**Mr. Price** asked to call for the vote

**Mr. Kochert** stated that they have never given the original one a chance that they hammered out with the judge.

**Mrs. Crump** stated that she had never even seen this one.

**Mr. Messer** stated that is why he called the special meeting so that everyone would be up to date on what was going on. He stated that they have to have a starting point and his plan is just a negotiation that the plaintiff's can either deny or accept and that it can go into the committee to be hammered out.

**Mrs. Crump** asked if it mattered which they voted on but that they were telling them that they are willing to set up a committee of three council members and three plaintiffs to work out the details of redistricting and avoid the lawsuit. She wanted clarification on what the hurry was to vote the original in and if it would stop the lawsuit.

**Mr. Ulrich** stated that either on would satisfy the judge.

**Mr. Kochert** stated that the original is the one they spent 4 hours working on and the one that they agreed to with the judge in principal.

**Mr. Messer** stated that the one he has is the one that he agreed to as the committee chairman with the plaintiffs.

**Mr. Blevins** stated that he thinks both members acting in goof faith on behalf of the council but he personally prefers the first plan because he doesn't like the idea of them being able to plug in dollar amounts. He stated that he doesn't mind them paying their parts but is uncomfortable leaving that open.

**Mr. Messer** stated that the Mayor called for this meeting and it is well within his right to do so because he was named in the lawsuit and he is here to discuss all the work that he

has been doing with the plaintiff's in order for them to drop the lawsuit so that the next council can make a wise decision on redistricting which is what they want and what this council should want.

**Mr. Coffey** stated that he is tired of being threatened by lawsuits and that Mr. Messer represents the council not the plaintiff's.

**Mr. Whimp** stated that Mr. Messer does represent him because he is a councilman at-large.

**Mr. Ulrich** clarified what they are calling for a vote on at tonight's meeting and differentiated between the two resolutions by labeling the original R-07-35A and the second R-07-35B.

**Mr. Jeff Gillenwater** addressed the council on behalf of the plaintiffs and what they expected out of the first consent decree that was not met. He stated that many of the stipulations in the first consent decree have changed and that is why they are asking for amendments to that one.

**Mr. Messer** asked that R-07-35B2 be amended to what him, Mr. Whimp and Mr. Smith set down and discussed and it is the last finished product that he has between the plaintiff's and the council and they have to vote on it before they can drop the lawsuit and if they don't then they are back to square one.

**Mrs. Crump** stated that her only concern with the B2 is that the figures aren't in there

**Mr. Whimp** stated that this last one is the one they agreed to and that if it is signed to tonight then they will drop the lawsuit and they arrived at this because of the work that they did with Mr. Messer and dummied it down to the bare facts and they don't know what the money figure is because this has continued on and they don't know if there are any additional money but as far as he knows there aren't any additional money but if it keeps going on it will go up.

**Mr. Zurschmiede** stated that he is fine with B2 with the exception of the fact that he wants a dollar amount in the resolution.

**Mr. Messer** said they have no way of knowing what the attorney fee is going to be as this thing goes on.

**Mr. Ulrich** stated that he doesn't see how they can go without approving one of these and that either would satisfy the judge.

**Mr. Messer** asked if there was any objection to amending the second resolution to include the total.

**Mr. Price moved for the reading of R-07-35A, Mrs. Crump second, the resolution passed with five aye votes from Mr. Coffey, Mr. Price, Mr. Schmidt, Mr. Kochert and Mr. Blevins, and one nay vote from Mr. Messer. Mr. Zurschmiede and Mrs. Crump abstained.**

**ADJORN:**

**There being no further business to be heard, the public hearing adjourned at 8:15 p.m.**

---

Larry Kochert, President  
Common Council, City of New Albany

ATTEST: \_\_\_\_\_  
Mindy Milburn, Deputy City Clerk